ORDINANCE NO. 1947

AN ORDINANCE ESTABLISHING THE REGULATION OF ONSITE WASTEWATER TREATMENT SYSTEMS

(ADDING CHAPTER 9.54 TO TITLE 9 OF THE MERCED COUNTY CODE)

THE BOARD OF SUPERVISORS OF THE COUNTY OF MERCED, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1: Chapter 9.54 of Title 9 of the Merced County Code, for Regulation of Onsite Wastewater Treatment Systems Ordinance of Merced County is added as follows:

Chapter 9.54

Regulation of Onsite Wastewater Treatment Systems

9.54.010 Title, purpose, findings and declaration

A. Title. The ordinance codified in this chapter may be cited as "Regulation of Onsite Wastewater Treatment Systems."

B. Purpose and Intent. The purpose and intent of this chapter is to ensure the health, safety, and general welfare of citizens, and to protect and enhance the water quality of watercourses and water bodies in Merced County.

C. Findings and Declarations. The Merced County Board of Supervisors makes the following findings and declaration in support of the enactment of the ordinance codified in this chapter:

1. The protection of the health, welfare, and safety of the residents of Merced County require that the water and other resources of Merced County be protected from adverse impacts resulting from the improper design, siting, installation, operation, and maintenance of onsite wastewater treatment systems (OWTS); and
2. An orderly means of preventing potential environmental degradation and unsanitary conditions from occurring in the County must be established, and that a safe and sanitary means of sewage disposal must be provided; and
3. Regulations are required for the control of individual OWTS facilities in the County, to protect the public health, safety and welfare of the inhabitants thereof; and
4. The risks to health, safety and well-being in Merced County related to potential improper sewage disposal require the County to take action as Merced County transitions to implementation of the State Water Resources Control Board, Resolution No. 2012-0032, adoption of the Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy).
5. Therefore, in order to protect the public health, safety and welfare, the Board of Supervisors of Merced County hereby adopts the provisions of this chapter relating to OWTS.

9.54.020 Definitions

A. Definitions:

1. "303(d) list" means the same as "Impaired Water Bodies."
2. "Abandoned well" means a well whose use has been discontinued or which is in such a state of disrepair that no water can be produced, water quality is at risk, or as otherwise defined within the California Water Well Standards.
3. "At-grade system" means an OWTS dispersal system with a discharge point located at the preconstruction grade (ground surface elevation). The discharge from an at-grade system is always subsurface.
4. "Average annual rainfall" means the average of the annual amount of precipitation for a location over a year as measured by the nearest National Weather Service station for the preceding three decades. For example, the data set used to make a determination in 2012 would be the data from 1981 to 2010.
5. "Basin Plan" means the same as "water quality control plan" as defined in Division 7 (commencing with Section 13000) of the Water Code. Basin Plans are adopted by each Regional Water Quality Control Board, approved by the State Water Resources Control Board and the Office of Administrative Law, and identify surface water and groundwater bodies within each Region's boundaries and establish, for each, its respective beneficial uses and water quality objectives.

6. "Bedrock" means the rock, usually solid, that underlies soil or other unconsolidated, surficial material.
7. "Board" means the Board of Supervisors of Merced County.
8. "Cesspool" means an excavation in the ground receiving domestic wastewater, designed to retain the organic matter and solids, while allowing the liquids to seep into the soil. Cesspools differ from seepage pits because cesspool systems do not have septic tanks and are not authorized under this chapter. The term cesspool does not include pit-privies and out-houses which are not regulated under this chapter.
9. "Clay" means a soil particle; the term also refers to a type of soil texture. As a soil particle, clay consists of individual rock or mineral particles in soils having diameters <0.002 mm. As a soil texture, clay is the soil material that is comprised of 40 percent or more clay particles, not more than 45 percent sand and not more than 40 percent silts particles using the USDA soil classification system.
10. "Contamination" means the impairment of the quality of the waters of the State by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease including any equivalent effect resulting from the disposal of waste, whether or not the waters are affected. (California Water Code Section 13050(l)(2).)
11. "Community Sewerage System" means a piped collection system which delivers sanitary wastes from a number of dwelling, business, commercial units to one or more waste water treatment plants and is normally under the jurisdiction of a public entity and operates under waste discharge requirements issued by the Regional Water Boards.
12. "County" means the County of Merced.
13. "Disposal area" means the area to be used for systems that receive the effluent discharge from a septic tank or other OWTS treatment unit, means the same as "dispersal area."
14. "Dispersal area" means the area to be used for systems that receives the effluent discharge from a septic tank or other OWTS treatment unit for dispersal, means the same as "disposal area".
15. "Division of Environmental Health" means the office within the Merced County Department of Public Health responsible for environmental health issues.
16. "Domestic wastewater" means wastewater with a measured strength less than high strength wastewater and is the type of wastewater normally discharged from, or similar to, that discharged from plumbing fixtures, appliances and other household devices including, but not limited to toilets, bathtubs, showers, laundry facilities, dishwashing facilities, and garbage disposals. Domestic wastewater may include wastewater from commercial buildings such as office buildings, retail stores, and some restaurants or from industrial facilities where the domestic wastewater is segregated from the industrial wastewater. Domestic wastewater may include incidental RV holding tank dumping but does not include wastewater consisting of a significant portion of RV holding tank wastewater such as at RV dump stations. Domestic wastewater does not include wastewater from industrial processes.
17. "Drainage Course" means channels or low lines of the terrain in which water flows either continuously or intermittently.

18. "Duck Club" means a facility located in an isolated area, occupancy is intermittent from October to January, groundwater level is at or near the surface preventing the installation of a standard OWTS, and the existing shallow groundwater precludes any beneficial domestic utilization.
19. "Dump station" means a facility intended to receive the discharge of wastewater from a holding tank installed on a recreational vehicle. A dump station does not include a full hook-up sewer connection similar to those used at a recreational vehicle park.
20. "Domestic well" means a groundwater well that provides water for human consumption.
21. "Earthen material" means a substance composed of the earth's crust (i.e. soil and rock).
22. "Ephemeral stream" means a stream, segment or portion of a stream which flows in direct response to precipitation.
23. "Effluent" means sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, aerobic treatment unit, dispersal system, or other OWTS component.
24. "Escherichia coli" means a group of bacteria predominantly inhabiting the intestines of humans or other warm-blooded animals, but also occasionally found elsewhere. Used as an indicator of human fecal contamination.
25. "Existing OWTS" means an OWTS that was constructed and operating prior to the effective date of this chapter, and OWTS for which a construction permit has been issued prior to the effective date of this chapter.
26. "Flowing water body" means a body of running water flowing over the earth in a natural water course, where the movement of the water is readily discernible or if water is not present it is apparent from review of the geology that when present it does flow, such as in an ephemeral drainage, creek, stream, or river.
27. "Groundwater" means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.
28. "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. (California Health and Safety Code Section 25117).
29. "High-strength wastewater" means wastewater having a 30-day average concentration of biochemical oxygen demand (BOD) greater than 300 milligrams per liter (mg/L) or of total suspended solids (TSS) greater than 330 mg/L or a fats, oil, and grease (FOG) concentration greater than 100 mg/L prior to the septic tank or other OWTS treatment component.
30. "IAPMO" means the International Association of Plumbing and Mechanical Officials.
31. "Individual disposal system" means a collection system and wastewater treatment or disposal facility for individual dwelling, business, commercial, etc. units.
32. "Impaired Water Bodies" means those surface water bodies or segments thereof that are identified on a list approved first by the State Water Resources Control Board and then approved by US EPA pursuant to Section 303(d) of the federal Clean Water Act.

33. "Impervious layer" means a strata, such as a clay or shale, that does not permit water to move through perceptibly.
34. "Leach field" means any dispersal system equal to or less than ten (10) feet below ground surface.
35. "Leachline" means a perforated pipe used to distribute septic tank effluent in a leach trench.
36. "Leach pit" means any dispersal system greater than ten (10) feet below ground surface.
37. "Local agency" means any subdivision of state government that has responsibility for permitting the installation of and regulating OWTS within its jurisdictional boundaries; typically a county, city, or special district.
38. "Major repair" means either: (1) for a dispersal system, repairs required for an OWTS dispersal system due to surfacing wastewater effluent from the dispersal field and/or wastewater backed up into plumbing fixtures because the dispersal system is not able to percolate the design flow of wastewater associated with the structure served, or (2) for a septic tank, repairs required to the tank for a compartment baffle failure or tank structural integrity failure such that either wastewater is exfiltrating or groundwater is infiltrating.
39. "Minimum useable disposal area" means the minimum area that must be available on a parcel or lot to be used for effluent discharge from a septic tank or other OWTS treatment unit.
40. "Mottling" means a soil condition that results from oxidizing or reducing minerals due to soil moisture changes from saturated to unsaturated over time. Mottling is characterized by spots or blotches of different colors or shades of color (grays and reds) interspersed within the dominant color as described by the USDA soil classification system. This soil condition can be indicative of historic seasonal high groundwater level, but the lack of this condition may not demonstrate the absence of groundwater.
41. "Mound system" means an aboveground dispersal system (covered sand bed with effluent leachfield elevated above original ground surface inside) used to enhance soil treatment, dispersal, and absorption of effluent discharged from an OWTS treatment unit such as a septic tank. Mound systems have a subsurface discharge.
42. "New OWTS" means an OWTS permitted after the effective date of this chapter.
43. "NSF" means NSF International (a.k.a. National Sanitation Foundation), a not for profit, non-governmental organization that develops health and safety standards and performs product certification.
44. "Oil/grease interceptor" means a passive interceptor that has a rate of flow exceeding 50 gallons-per-minute and that is located outside a building. Oil/grease interceptors are used for separating and collecting oil and grease from wastewater.
45. "Onsite wastewater treatment system(s)" (OWTS) means individual disposal systems, community collection and disposal systems, and alternative collection and disposal systems that use subsurface disposal with flows not exceeding 10,000 gallons per day. The short form of the term may be singular or plural. OWTS do not include "graywater" systems pursuant to Health and Safety Code Section 17922.12.
46. "Perennial stream" means a stream that flows throughout the year.
47. "Percolation test" means a method of testing water absorption of the soil. The test is conducted with clean water and test results can be used to establish the dispersal system design.

48. "Permit" means a document issued by a local agency that allows the installation and use of an OWTS, or waste discharge requirements or a waiver of waste discharge requirements that authorizes discharges from an OWTS.
49. "Person" means and includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons, and public entities. "Person" includes any individual or firm who directs, or engages in, construction, repair, abandonment or destruction of an OWTS.
50. "Pit-privy" (a.k.a. outhouse, pit-toilet) means self-contained waterless toilet used for disposal of non-water carried human waste; consists of a shelter built above a pit in the ground into which human waste falls.
51. "Pollutant" means any substance that alters water quality of the waters of the State to a degree that it may potentially affect the beneficial uses of water, as listed in a Basin Plan.
52. "Porosity" means the ratio of the aggregate volume of interstices in a rock or soil to its total volume.
53. "Projected flows" means wastewater flows into the OWTS determined in accordance with any of the applicable methods for determining average daily flow in the USEPA Onsite Wastewater Treatment System Manual, 2002, or for Tier 2 in accordance with an approved Local Agency Management Program.
54. "Public Water System" is a water system regulated by the California Department of Public Health, State Water Resources Control Board, Division of Drinking Water, or a Local Primacy Agency pursuant to Chapter 12, Part 4, California Safe Drinking Water Act, Section 116275 (h) of the California Health and Safety Code.
55. "Public Water Well" is a groundwater well serving a public water system. A spring which is not subject to the California Surface Water Treatment Rule (SWTR), CCR, Title 22, sections 64650 through 64666 is a public well.
56. "Qualified professional" means an individual licensed or certified by a State of California agency to design OWTS and practice as professionals for other associated reports, as allowed under their license or registration. Depending on the work to be performed and various licensing and registration requirements, this may include an individual who possesses a registered environmental health specialist certificate or is currently licensed as a professional engineer or professional geologist. For the purposes of performing site evaluations, Soil Scientists certified by the Soil Science Society of America are considered qualified professionals.
57. "Regional Water Board" is any of the Regional Water Quality Control Boards designated by Water Code Section 13200.
58. "Replacement OWTS" means an OWTS that has its treatment capacity expanded, or its dispersal system replaced or added onto, after the effective date of this chapter.
59. "Report of waste discharge" means a report required under Section 13260 of the Porter-Cologne Water Quality Act.
60. "Rock" means any consolidated or coherent and relatively hard, naturally formed mass of mineral matter that cannot be excavated by manual methods alone.
61. "Sand" means a soil particle; this term also refers to a type of soil texture. As a soil particle, sand consists of individual rock or mineral particles in soils having diameters ranging from 0.05 to 2.0

millimeters. As a soil texture, sand is soil that is comprised of 85 percent or more sand particles, with the percentage of silt plus 1.5 times the percentage of clay particles comprising less than 15 percent.

62. "Sanitation system contractor" means a contractor that fabricates and installs septic tanks, storm drains, and other sewage disposal and drain structures. This classification includes the laying of cast-iron, steel, concrete, vitreous and non-vitreous pipe and any other hardware associated with these systems (California Code of Regulations, Title 16, Division 8, Article 3. Classifications).
63. "Seepage pit" means a drilled or dug excavation, often three (3) and up to six (6) feet in diameter, either lined or drain rock filled, that receives the effluent discharge from a septic tank or other OWTS treatment unit for dispersal.
64. "Septage" means solid residue with lower water content from septic tanks, or wastewater treatment facilities.
65. "Septic tank" means a watertight, covered receptacle designed for primary treatment of wastewater and constructed to: 1. Receive wastewater discharged from a building; 2. Separate settleable and floating solids from the liquid; 3. Digest organic matter by anaerobic bacterial action; 4. Store digested solids; and 5. Clarify wastewater for further treatment with final subsurface discharge.
66. "Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
67. "Sewer pipe" means an unperforated pipe carrying wastewater from fixtures to a septic tank or from a septic tank to a leach line.
68. "Service provider" means a person qualified to and capable of operating, monitoring, and maintaining an OWTS in accordance with this chapter.
69. "Silt" means a soil particle; this term also refers to a type of soil texture. As a soil particle, silt consists of individual rock or mineral particles in soils having diameters ranging from between 0.05 and 0.002 mm. As a soil texture, silt is soil that is comprised as approximately 80 percent or more silt particles and not more than 12 percent clay particles using the USDA soil classification system.
70. "Single-family dwelling unit" means a structure that is usually occupied by just one household or family and for the purposes of this chapter is expected to generate between 150 to 250 gallons per day of wastewater.
71. "Site" means the location of the OWTS and, where applicable, a reserve dispersal area capable of disposing 100 percent of the design flow from all sources the OWTS is intended to serve.
72. "Site Evaluation" means an assessment of the characteristics of the site sufficient to determine its suitability for an OWTS to meet the requirements of this chapter.
73. "Soil" means the naturally occurring body of porous mineral and organic materials on the land surface, which is composed of unconsolidated materials, including sand sized, silt-sized, and clay-sized particles mixed with varying amounts of larger fragments and organic material. The various combinations of particles differentiate specific soil textures identified in the soil textural triangle developed by the United States Department of Agriculture (USDA) as found in Soil Survey Staff, USDA; Soil Survey Manual, Handbook 18, U.S. Government Printing Office,

Washington, DC, 1993, p. 138. For the purposes of this chapter, soil shall contain earthen material of particles smaller than 0.08 inches (2 mm) in size.

74. "Soil Structure" means the arrangement of primary soil particles into compound particles, peds, or clusters that are separated by natural planes of weakness from adjoining aggregates.
75. "Soil texture" means the soil class that describes the relative amount of sand, clay, silt and combinations thereof as defined by the classes of the soil textural triangle developed by the USDA (referenced above).
76. "Special System" means an onsite wastewater treatment system other than a standard system.
77. "State Water Board" is the State Water Resources Control Board.
78. "Standard System" means an onsite wastewater treatment system for a single family dwelling which uses an approved concrete, two-compartment septic tank that disperses to a three (3) foot wide by three (3) foot deep trench utilizing drain rock or chambers, relying on gravity for influent and effluent flows, and has no additional treatment features.
79. "Supplemental treatment" means any OWTS or component of an OWTS, except a septic tank or dosing tank, that performs additional wastewater treatment so that the effluent meets a predetermined performance requirement prior to discharge of effluent into the dispersal field.
80. "TMDL" is the acronym for "total maximum daily load." Section 303(d)(1) of the Clean Water Act requires each State to establish a TMDL for each impaired water body to address the pollutant(s) causing the impairment. In California, TMDLs are usually adopted as Basin Plan amendments and contain implementation plans detailing how water quality standards will be attained.
81. "Total coliform" means a group of bacteria consisting of several genera belonging to the family Enterobacteriaceae, which includes Escherichia coli bacteria.
82. "USDA" means the U.S. Department of Agriculture.
83. "Vertical Leaching Pit" means a bore hole, often three (3) feet in diameter, greater than ten (10) feet below ground surface, either lined or drain rock filled, that receives the effluent discharge from a septic tank or other OWTS treatment unit for dispersal.
84. "Waste discharge requirement" or "WDR" means an operation and discharge permit issued for the discharge of waste pursuant to Section 13260 of the California Water Code.
85. "Water table" means the zone of saturation, except where that surface is formed by an impermeable body such as cemented sands and hardpans.
86. "Wastewater" means sewage, graywater, and any and all other contaminated liquid waste substances often associated with human habitation.
87. "Zone of Saturation" means the area below the water table at which the soil is completely saturated.

9.54.030 Sewage Disposal Systems

A. Systems Required:

1. Every building in which plumbing fixtures are installed and every premises having drainage piping thereon, shall have a connection to an approved public or private sewage disposal system.

2. The public sewer may be considered as not being available when such public sewer or any building or any exterior drainage facility connected thereto, is located more than two hundred (200) feet from any proposed building or exterior drainage facility on any lot or premises which abuts and is served by public sewer. If special conditions exist, the Division of Environmental Health Director may waive this requirement.
3. If a connection to a public sewer is available, a permit shall not be issued for the installation of an OWTS, or for the alteration or repair of an existing OWTS.
4. On every lot or premises hereafter connected to public sewer, all plumbing and drainage systems or parts thereof, on such lot or premises, shall be connected with such public sewer.

9.54.040 On-site Sewage System Requirements

A. Where permitted or required by code or regulation, the building sewer may be connected to an OWTS complying with the provisions of this chapter. The type of the system shall be determined on the basis of location, soil character, loading rate, and groundwater level and shall be designed by a qualified professional to receive all sewage from the property. The OWTS, except as otherwise provided, shall consist of a septic tank with effluent discharging into an approved, subsurface disposal field.

B. Where conditions are such that the above system cannot be expected to function satisfactorily for commercial, agricultural and industrial plumbing systems; for installations where appreciable amounts of industrial or indigestible waste are produced; estimated flows from hotels, hospitals office buildings, schools, and other occupancies not specifically listed in applicable plumbing code; and for occupancies producing unusual quantities of sewage or liquid waste; the method of sewage treatment shall be first approved by the Division of Environmental Health.

C. One acre parcels with restrictive/severe soils will require that disposal systems be designed to utilize the most permeable or absorptive portions of the soil formation as determined by a percolation test on each parcel in the disposal field area. There shall be a minimum of five (5) feet of permeable soil below the bottom of the proposed OWTS.

D. All OWTS shall be so situated on the parcel so that additional subsurface drain fields, equivalent to at least one hundred (100) percent, and in some cases three hundred (300) percent (commercial and other sources) of the required original system, may be installed.

E. No property shall be improved in excess of its capacity to absorb sewage effluent in the quantities and by the means provided in this chapter.

F. In the event the Division of Environmental Health determines that there is insufficient lot area or improper soil conditions for adequate sewage disposal by percolation methods for the building or land use proposed, no building permit shall be issued and no OWTS shall be permitted. The land developer or owner may submit additional data, test reports, design calculations and other materials to the Division of Environmental Health for re-evaluation.

G. Nothing in this chapter shall prevent the Division of Environmental Health from requiring compliance with more stringent requirements than those contained herein where such additional requirements are essential to maintain a safe and sanitary condition.

H. An exception to any provision of these standards may be authorized when in the judgment of the Division of Environmental Health Director, the application of such provisions is unnecessary or impose additional requirements if necessary to protect the quality of the water resources, public health and safety. Specific conditions or exceptions will be prescribed on the variance permit.

9.54.050 Prohibitions

A. No person shall discharge or cause to be discharged into any onsite wastewater treatment system, any materials, including, but not limited to, pollutants, hazardous materials, or waters containing any pollutants or contamination that causes or contributes to a violation of applicable water quality standards. All sewage shall be disposed of by an approved method of collection, treatment and effluent discharge.

B. The location, installation, operation and maintenance of OWTS and each part thereof shall be such that it will function in a sanitary manner and will not create a nuisance or endanger the safety of any water supply, groundwater or surface water. In determining a suitable location for the system, consideration shall be given to the size and shape of the lot, location of building, slope of ground surface, depth to groundwater, proximity of existing future water supplies, and expansion of system or connection to future public sewers.

9.54.060 Permit requirement

A. Permit requirement. The property owner, and any contractor required by law, shall apply for and obtain a permit from the Division of Environmental Health prior to commencing construction, repair, or abandonment/destruction of any an OWTS within the unincorporated areas of Merced County and incorporated areas where authorized. The application for a permit shall be in the form prescribed by the Division of Environmental Health and contain such information as the Division of Environmental Health may require. Every permit issued shall be contingent upon compliance with the requirements specified in this chapter.

1. An application for an OWTS may be submitted to the Division of Environmental Health by mail, however, construction of the proposed OWTS shall not commence until the permit application has been approved and the property owner and contractor is in receipt of the approved permit.
2. It shall be the responsibility of the property owner or any contractor engaged, to post the permit at the work site, prior to commencement of work for which the permit is required and provide a minimum twenty-four (24) hours notification for standard OWTS, and forty-eight (48) hours notification to the Division of Environmental Health prior to commencing work. The permit shall be posted in a readily accessible location on the property before work commences, and shall remain posted during all phases of inspection and until final approval is documented. Inspections shall be requested from the Division of Environmental Health not less twenty-four hours in advance. Any owner or contractor who fails to comply with this requirement and

commences work, for which a permit is required but has not been secured, shall be in violation of this chapter.

3. A permit shall be required for repair of any part of the septic tank and/or leach field and/or leach pit other than pumping of the septic tank.
4. An application for an OWTS permit shall be accompanied by a nonrefundable permit fee, when a fee is required.

B. Permit Validity. A permit issued under this chapter shall be valid for a period of six (6) months from the date of issuance. At any time prior to the expiration of the six month permit period, a permittee under this chapter may apply for one extension of the permit, for a period of one year. The extension of a permit under this section may be granted at the discretion of the Division of Environmental Health Director, upon a showing of good cause. Completion of the permitted work in accordance to this ordinance shall be within twelve (12) months from the date of issuance of the permit, or twelve (12) months from the date of any permit extension under this section.

C. Permit Applicant Requirements. When a contractor makes an application for a permit, said contractor shall have on file a copy of a valid contractor's license and a certificate of insurance which states that there is in existence a valid policy of workmen's compensation insurance in a form approved by the Insurance Commissioner. Said certificate shall show the following:

1. The expiration date;
2. Coverage is provided for construction permits in accordance with Labor Code § 3800;
3. The insurer shall give the County at least ten (10) days' notice of the cancellation of the policy. No permit shall be issued without the insurance information above.

9.54.070 Site evaluation

A. Site Evaluation. Soils in Merced County vary dramatically from parcel to parcel, and within a parcel boundary. Some parcels and lots will be unusable where OWTS are contemplated. Percolation test results, soil analyses and reports, groundwater data, loading rates, and plot plans shall be submitted to the Division of Environmental Health for review and approval. The Division of Environmental Health may exempt these requirements (except plot plan) on parcels where documented OWTS performance is adequate, or when special sewage system designs in comparable soil conditions are on file and have demonstrated satisfactory operational histories. OWTS component locations and sizes shall be established and computed as set forth in the design standards of this chapter.

B. Percolation Rates and Tests. In designated areas of where subsurface OWTS are planned, the soil must have an acceptable percolation rate without interference from groundwater or impervious soil strata below the proposed dispersal area. Percolation tests in proposed sewage disposal area(s) will be required in areas of restricted soils, commercial installations, proposed and new divisions of land relying on private OWTS, and special systems to determine the suitability of soils to receive effluent from OWTS. Percolation rate tests may be specified as to the number of tests and the locations on the division of land plat or other land development plan by the Division of Environmental Health Director. Percolation tests must be performed within the designated sewage disposal area(s).

1. Percolation Rate Criteria. Percolation rate testing must be performed by a qualified professional. Advance notice, minimum of 24 hours, shall be given to the Division of Environmental Health so that the performance of a percolation rate test may be observed.
2. A minimum of one (1) percolation test per parcel, or more if required by the Division of Environmental Health, shall be performed to clearly show the absorptive capacity of the soils throughout the area to be developed. These tests shall be performed according to the percolation test standards and procedures approved by the Division of Environmental Health.
3. Percolation tests should be performed at various depths in order to determine the optimal soil(s) for OWTS sewage dispersal. The percolation test criteria presented in this chapter are designed to standardize percolation test procedures and thereby establish a uniform basis for evaluating percolation test results.
4. Percolation test procedures:
    a. Dig, or bore a test hole with a minimum diameter of eight (8) inches. The bottom of the test hole shall be located at the same depth as the bottom of the proposed leaching field.
    b. There shall be at least five (5) feet of undisturbed soil extending around all sides of the percolation test hole.
    c. Roughen or score the bottom and sidewalls of each test hole to expose the natural surface of the materials encountered. Remove all loose materials from the test hole.
    d. Evenly spread two (2) inches of coarse sand or fine gravel into each test hole to protect the bottom surface of the test hole. Insert a perforated pipe, vertically oriented, into the test hole resting on the surface of the emplaced sand or gravel. The pipe shall be secured in place to prevent movement during the test.
    e. Pour clean water into the perforated pipe to a minimum depth of 12 inches above the bottom of the hole. Recheck the water level in the perforated pipe routinely and refill if necessary to ensure the test hole is saturated. The test hole shall be presoaked for a minimum of 24 continuous hours. If the soil is known to have a low shrink-swell potential, the 24-hour presoaking period is unnecessary. In this case, fill the test hole with clean water to a depth of 12 inches. Allow the water to completely seep away, then proceed with subsection "f" below.
    f. Immediately following the 24-hour soaking period, adjust the water level to six inches above the sand or gravel layer. From a fixed reference point, measure the drop in water level at approximately 30 minute intervals, 10 minute intervals or less for sandy soils, measurement interval will vary. When a stabilized absorption rate has been reached, the test may be ended. Percolation rates will be considered stabilized when four (4) consecutive readings demonstrate a consistent rate of fall has been obtained. The smallest drop that occurs during the stabilized period will be used to calculate the percolation rate.

C. Soils Report. A soils report regarding the feasibility of using onsite wastewater treatment system is required for subdivision land development and may be required for an individual parcel and other developments. The Division of Environmental Health will determine OWTS design specifications from the soil report. The report must be prepared and signed by a qualified professional or other specialist acceptable to the Division of Environmental Health containing the following information at a minimum:

1. Soils Report Criteria.
    a. Soil borings must be completed to clearly describe the types of soil beneath the dispersal area. Borings should extend to a point at least five (5) feet below the finished grade of proposed dispersal areas including horizontal trenches and ten (10) feet for vertical leaching

pits. A minimum of one soil boring for every five (5) acres in the dispersal area, or if conditions indicate, a greater number of soil borings will be required as determined by the Division of Environmental Health Director.

b. The soils encountered must be accurately described in accordance with the USDA, "Unified Soil Classification System." Specified field-derived information on each soil type encountered shall include: typical name and group symbol; approximate percent of gravel, sand and fines (silt or clay); plasticity; color; dilatancy; moisture conditions; type and degree of cementation; consistency (clays) or degree of compactness; structure and drainage characteristics; and other pertinent descriptive information affecting soil permeability. Laboratory testing may be required to substantiate suitability of soil for individual sewage systems.

c. The soils report must accurately define and describe areas where hardpan or other impermeable layers of soil and rock exist within fifteen (15) feet of the ground surface.

d. The soils report must provide a detailed description of the groundwater table in and adjacent to the project area.

9.54.080 Design standards and criteria

A. Design Standards, Criteria and Design Revision. The Division of Environmental Health shall prepare design standards for OWTS. When necessary and as required, the Division of Environmental Health shall revise and design OWTS standards to reflect contemporary engineering concepts and other legal requirements.

1. Design Standards and Criteria. The OWTS system shall be designed to receive all domestic sewage from the property. No basement, footing, surface drainage, water softener, or discharge from swimming pool filters (backwash) shall be permitted to enter any part of this system.
   a. The OWTS shall consist of a house sewer, a septic tank, and drainage/dispersal area. Package sewage treatment plants will be evaluated on their engineered design.
   b. Where soil porosity and available area permit, the drainage system shall consist of a subsurface horizontal leaching field.
2. Where soil porosity and available area do not permit the use of a subsurface horizontal leaching field, and an adequate absorption soil stratum can be found at a greater depth without endangering the water table, the effluent may be discharged into one or more vertical leaching pits.

B. Qualified Professional. Only those persons knowledgeable and experienced shall conduct site evaluations and engage in the design of OWTS. Only qualified professionals shall design OWTS and practice as professionals as allowed under their specific license or registration.

C. Special OWTS and Experimental Systems. Special OWTS designs shall be accepted for review from a qualified professional acceptable to the Division of Environmental Health. Re-evaluation and follow up reporting is required to validate the proper performance and functionality of any special or experimental system.

D. Commercial, Industrial and Multi-Use OWTS. Evaluation of these proposed OWTS may require additional information not required for a single family residential/standard system. The applicant for

such an OWTS shall provide the Division of Environmental Health drawings, data, and other engineering calculations and materials as may be required by the Division of Environmental Health in order to evaluate the proposed system.

E. Responsibility. The property owner and/or their contractor(s) are responsible for compliance with installation requirements. The property owner is responsible for proper operation, maintenance, abandonment, and destruction of any OWTS.

F. Abandonment. Abandoned OWTS shall be properly disconnected from the building or sewage source, and pumped by a licensed septic tank pumper. , Components removed must be disposed of at an approved location, or destroyed in-place and backfilled with compacted earth, sand or other approved materials; septic tanks destroyed in-place shall be rendered incapable of fluid storage. All abandonment/destruction work must be performed under permit obtained from the Division of Environmental Health.

G. Plot Plan. All OWTS shall be permitted and installed as designed and approved. Any variation from approved design may require a new OWTS permit and approval. The OWTS permit application shall be signed by the property owner and appropriately licensed contractor in accordance with applicable laws affirming the information provided is accurate and representative of actual site conditions, and shall include a representational detailed drawing of the subject parcel or portion thereof. The plot plan shall be drawn to reasonable scale, no larger than one (1) inch equaling fifty (50) feet, with the following information:

1. Owner's name, street address, job address and telephone number;
2. A diagram of the parcel showing all property lines, dimensions, the assessor parcel number (APN), and North arrow orientation;
3. Names of streets and roads fronting the property, and any existing and proposed internal roads and vehicle access and/or parking areas including driveways;
4. Dimensions, outlines, and locations of all existing and proposed structures, including hard surfaces such as patios, driveways and walks (e.g., earthen, asphalt, concrete and or gravel-covered);
5. Location of house sewer outlet and proposed location of septic tank and disposal system on the property;
6. Location and nature of any existing and proposed OWTS on the property, and dedicated replacement areas in the event of system failure;
7. Location of any existing trees which may affect location of septic tank or disposal areas and related systems.
8. Any prominent features on and adjacent to the property such as right-of-ways, easements, elevation changes, canals, creeks, lagoons, ponds, corrals;
9. Location of any existing or proposed well, in use or abandoned, either on this property or within 300 feet of the property lines;
10. A statement of the maximum expected waste volume per day: For dwelling units, pool houses, and/or guesthouses, provide the number of bedrooms and bathrooms (rooms with closets will be considered bedrooms for OWTS design purposes);
11. Source and description of domestic water supply;

12. Any public water supply well within 200 feet and any surface water intake for a public water system within 2,500 feet;
13. Total square footage of the lot, minimum useable disposal area on the lot, and all buildings;
14. Setback requirements of front, back and sides of property;
15. Name and telephone number of the preparer of the plot plan.

H. Soil Conditions:

1. Soil depth separation from the bottom of the leachfield trench to the highest anticipated level of groundwater shall not be less than five (5) feet for any horizontal dispersal field or ten (10) feet for any vertical leaching pits.
2. A permeable soil strata with a percolation rate equal to or faster than the OWTS design rate, but not faster than five (5) minutes per inch, shall extend to a depth of at least one foot below the bottom of the leachfield trench.

I. Minimum Disposal/Dispersal Field Area:

1. The minimum disposal field area shall conform to Table 1 - Percolation Rates and Minimum Usable Disposal Areas below. Minimum lot size for parcels with OWTS is one (1) net acre of useable area with an individual domestic well or public water system.
2. The minimum disposal area shall conform to the following:

Table 1 - Percolation Rates and Minimum Usable Disposal Areas

Percolation Rate (minutes/inch)*	**Minimum Usable Disposal Area** (square foot)
5-10	6,000
11-20	8,000
21-40	10,000
41-60	12,000
61-80	14,000
81-100	16,000
101-120	18,000
121-140	20,000
141-160	22,000
161-180	24,000
180+	++

* Determined in accordance with procedures contained in current U.S. Department of Health, Education and Welfare "Manual of Septic Tank Practices", E.P.A. Manual, Onsite Wastewater and Disposal Systems or an alternative method approved by the Division of Environmental Health Director.

++ A minimum parcel size of five (5) acres is required when percolation rates are greater than 180 minutes per inch.

J. Unacceptable Disposal Areas:

1. Installation of drain fields in low lying areas and areas subject to flooding, or in areas where groundwater reaches the ground surface at certain times of the year, are not acceptable unless otherwise approved by the Division of Environmental Health.

2. The following areas are also considered unsuitable for the location of disposal areas, disposal replacement and expansion areas;
    a. Areas within any easement which is dedicated for surface or subsurface improvement and any paved area.
    b. Areas for vehicle parking.
    c. Areas not owned or controlled by property owners unless said area is dedicated for wastewater disposal purposes.
    d. Areas occupied or to be occupied by structures.
    e. Slopes for effluent disposal greater than 20 percent.

K. Minimum Horizontal Separation Distances:

Table 2 – Minimum Horizontal Separation Distances (in feet)			
Facility	Septic Tank or Sewer Line	Leach Field	Leach Pit
Domestic Well*	50	100	150
Public Well*	100	150	200
Flowing Spring or Stream[1]	100	100	100
Drainage Course or Ephemeral Stream[2]	25	50	50
Cut or Fill Bank[3]	10	4 x H	4 x H
Property Line[4]	25	50	75
Structures	5	10	15
Lake, Ponds, Reservoir, Wetlands[5]	200	200	200
Public Water System Surface Water Intake	See foot notes 6 and 7 below	See foot notes 6 and 7 below	See foot notes 6 and 7 below
Unstable Land Mass	100	100	100

*Merced County Code, Chapter 9. *Wells*, Section 9.28.060. C. 5. A. requires a minimum 50 annular seal that is 2.5 times greater than the State minimum standard established by the Department of Water Resources.

[1]As measured from the line which defines the limit of a 10-year frequency flood.

[2]As measured from the edge of the drainage course or stream.

[3]Distance in feet equal to four times the vertical height of the cut or fill.

[4]This distance shall be maintained when individual wells are to be installed and the minimum distance between waste disposal and well cannot be assured.

[5]As measured from the high water mark of the reservoir or flowing water body.

[6]Where the effluent dispersal system is within 1,200 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 400 feet from the high water mark of the reservoir, lake or flowing water body.

[7]Where the effluent dispersal system is located more than 1,200 feet but less than 2,500 feet from a public water systems' surface water intake point, within the catchment of the drainage, and located such that it may impact water quality at the intake point such as upstream of the intake point for flowing water bodies, the dispersal system shall be no less than 200 feet from the high water mark of the reservoir, lake or flowing water body.

L. Minimum Requirements.

1. Septic Tank Specifications:
   a. Minimum septic tank size is as follows:

Capacity of Septic Tanks	
Number of Bedrooms	**Liquid Capacity in Gallons**
1 - 3	1,200
4	1,500
5[1]	1,800

[1]Tank capacity shall be increased by three hundred (300) gallons per bedroom for each additional bedroom over five (5).

2. To compute the septic tank size for commercial or institutional use, the following formulas are used:

   a. Waste/sewage flow, up to 1,500 gal/day -

      Flow x 1.5 = tank size

   b. Waste/sewage flow over 1,500 gal/day -

      (Flow x 0.75) +1,125 = tank size

3. Materials of Construction:

   a. The septic tank shall have a minimum of two compartments and be constructed entirely of reinforced watertight precast concrete.

   b. Wood or metal septic tanks are not permitted.

   c. Tanks constructed of durable and non-corrodible synthetic materials may be allowed subject to the approval of the Division of Environmental Health.

4. The inlet and outlet baffles (tees) shall extend at least four (4) inches above and twelve (12) inches below the water surface.
5. The inlet compartment shall not be less than two-thirds (2/3) of the total capacity of the septic tank.
6. Access to the septic tank shall be provided by at least two (2) manholes, a minimum of twenty (20) inches in diameter. One shall be located over the inlet compartment, the other over the outlet compartment.
7. Each compartment of any septic tank, where the septic tank is installed greater than two (2) feet below ground surface, and all holding tanks, shall be accessible via a water tight riser to or above grade, with a bolted or locked water-tight lid. The tank-riser interface shall be water-tight.
8. NSF/ANSI certified effluent filters (less than 3/16" passage) are required for new and replacement septic tanks.
9. Septic tank construction shall conform to California Plumbing Code regulations. Inlet and outlet baffles or compartment partitions shall have a free vent area equal to the required cross sectional area of the house sewer or private sewer discharging therein to provide free ventilation above the water surface from the disposal field through the septic tank, house sewer and stack to the outer air.

10. Horizontal drainage piping from the building or other sewage source to the septic tank shall be a uniform slope of not less than one quarter (1/4) inch per foot. In special cases the slope may be reduced to one-eighth (1/8) inch per foot.
11. Minimum horizontal distance from the septic tank to building foundation is five (5) feet.
12. The building or other sewage source stub out shall exit the building or other source no less than six (6) inches and not more than eighteen (18) inches below adjacent finish grade.
13. The septic tank shall be covered with not less than twelve (12) inches of soil.

M. Leachfield:

1. Leachfield Specifications:
   a. Leachline trench absorption area shall be based on the sidewall area of the trench.
   b. Gravity flow leachlines (perforated pipe) shall be laid level in the trench with a maximum length of 100 feet.
   c. Drain rock shall be round, a minimum of three-quarter (3/4) inch and not more than two and one-half (2-1/2) inch, washed gravels, relatively free of fines, sand, very fine silt and clay (no crushed rock).
   d. In clay soils, smeared or compacted surfaces of horizontal trenches and shallow pits must be scored prior to filling with drain rock or installation of other approved materials.
   e. Distribution boxes shall be constructed of watertight precast concrete with an integral bottom and shall be designed and positioned to assure equalized flow. All inlets and outlets shall be sealed.
   f. Leachfields shall not be installed in saturated soils.
   g. Leachlines must be ten (10) feet away from any building foundation.
   h. Minimum distance between leachlines is ten (10) feet measured horizontally center to center.
   i. A minimum fifty (50) foot perimeter setback is required from all lot lines adjacent to undeveloped property and a five (5) foot perimeter setback is required from all other parcel lot lines.
   j. Leachlines shall not be less than four (4) inches in diameter and laid with one-quarter (1/4) to one-half (1/2) inch perforations.
   k. Before leachlines are laid, approved drain rock shall be placed in the trench to a minimum depth of eighteen (18) inches. A minimum cover of four (4) inches of drain rock over the leachline is required. A cover of untreated building paper, or suitable substitute (e.g., fine mesh geotextile fabric), shall be used to cover the drain rock to prevent trench backfill materials from entering the voids in the emplaced drain rock; there shall be a minimum backfill of one foot of earthen cover over the building paper.
   l. Distribution boxes shall be constructed at the head of each subsurface disposal field. The box shall be at least twelve (12) inches across inside. Each leachline shall be connected individually. Distribution box alternatives may be approved by the Division of Environmental Health Director.
   m. The leachfield trench should not be more than three (3) feet wide nor less than two (2) feet wide for maximum secondary treatment.
   n. A standard leachline is considered to be three (3) feet wide, three (3) feet deep with a length as required.

o. Chamber systems may be installed as an alternative to drain rock. Decreased leaching area for IAPMO certified dispersal systems, such as chambers, using a multiplier equal to and less than 0.75 may be allowed.

p. The minimum soil cover for standard systems shall be at least six (6) inches below surface grade for pressure systems and twelve (12) inches below surface grade for standard gravity systems.

N. Sewage Flow Specification:

1. Sewage Flow Specification Applicability. The sewage flow from a residential OWTS shall be based on a minimum of one hundred fifty (150) gallons per bedroom per day.

a. Other OWTS shall be designed according to site specific percolation tests, loading rates, and other factors.

b. Other design flows shall be approved by the Division of Environmental Health upon submission of supporting data and calculations.

O. Special Design OWTS:

1. Special Design OWTS Applicability. Special design OWTS are required for OWTS that do not comply with the design criteria for standard systems including systems where the soil conditions, topography, or ultimate use are included in, but, not limited to the following categories.
   a. Disposal field soils where percolation rates are slower than sixty (60) minutes per inch or faster than five (5) minutes per inch.
   b. Installation on slopes greater than ten (10) percent and not more than twenty (20) percent.
   c. Disposal systems for other than single family residential use.
   d. Disposal systems requiring advanced or alternative treatment (e.g., advanced treatment units/ATU).
2. Special Design OWTS System Designer. Special systems shall be designed by qualified professionals.
3. Special Design OWTS Processing Procedure. The plot plan and supporting data relative to the proposed site must be submitted to the Division of Environmental Health for evaluation and approval.

P. Alternative OWTS (ATS) and Advanced Treatment Units (ATU). Where centralized public waste water services are not proposed for a subdivision or certain commercial properties relying on individual onsite waste water treatment systems, the Division of Environmental Health will require Nitrogen-Reducing ATS or other approved ATU to be properly installed, operated and maintained.

1. Alternative OWTS (ATS) and Advanced Treatment Units (ATU) Applicability. The intent of this requirement is to reduce wastewater concentrations and protect surface and groundwater resources, particularly in higher density OWTS applications. The following conditions shall be applied to all major subdivisions and certain commercial properties approved on or after November 18, 2005 as determined by the Division of Environmental Health.
2. Nitrogen-Reducing Advanced Treatment Systems requirements for all major subdivisions and certain commercial properties in Merced County:

   a. Specially designed nitrogen-reducing OWTS are required which release an effluent concentration not to exceed 50% of the influent total nitrogen concentration. The

specific system that meets this requirement shall be approved by the Division of Environmental Health prior to installation.

b. Testing and performance certification of the nitrogen-reducing system is required by a third party independent organization (e.g., State or Federal agency, college/university, NSF, ANSI, etc.). Certification shall document at least six (6) months of successful operation during which the effluent total nitrogen did not exceed fifty (50) percent of the influent total nitrogen concentration.

c. The property owner is responsible for the proper ongoing operation and maintenance of the nitrogen-reducing system, ATS and ATU. The owner shall demonstrate to the Division of Environmental Health, the approved system was installed and is continuously operated and maintained in accordance with manufacturer's requirements and recommendations. Performance reporting is required, with specific information and intervals (e.g., annual), to be determined by the Division of Environmental Health Director which may include, but not limited to, influent and effluent concentrations for nitrogen compounds, total suspended solids (TSS), biochemical oxygen demand (BOD), component function status, failures, and repairs.

Q. Duck Clubs. Duck clubs contemplating OWTS reliance often experience difficulty meeting setback requirements related to surface water and/or groundwater and percolation rates are routinely greater than 60 minutes per inch in these settings requiring large disposal areas. When waterfowl ponds are flooded, area groundwater rises as soils become saturated. As a result, required minimum separation from the bottom of leach lines to anticipated high groundwater is difficult or impossible to achieve.

1. Minimum Requirements:

   a. All human toilet waste material contained in a chemical toilet or a watertight holding tank shall be serviced as frequently as necessary and/or at least once a year at the end of the season by a Licensed Septic Tank Pumper with ultimate disposal at an authorized location.

   b. Graywater from kitchen sinks, showers or laundry facilities may be discharged to a stabilization/oxidation pond in a design approved by the Division of Environmental Health.

   c. The Division of Environmental Health may prescribe more stringent requirements if considered necessary for the protection of public health and safety.

   d. Existing Duck Club OWTS may continue using their present OWTS provided a potential or actual nuisance or health and safety hazard is not created, and the facilities are upgraded to the minimum required specified in this chapter upon any major modification or replacement of existing structures.

   e. Caretaker dwelling units occupied on a permanent basis shall have a special designed OWTS approved by the Division of Environmental Health.

3. Holding Tank/Septic Tank Criteria for Duck Clubs. The Division of Environmental Health may permit septic-tank-only systems for Duck Clubs under the following conditions:

   a. The minimum holding tank size is 1,800 gallons for 1, 2, and 3-bedroom dwellings. Each additional bedroom (or equivalent sleeping area) requires an increase in tank capacity of 300 gallons.

   b. Holding tanks may be single compartment, all sewage holding tanks must be water tight.

c. Holding tanks (all compartments) shall be pumped dry at the end of each season's use and in-between as needed. No septic tank or holding tank shall be allowed to overflow.

d. Each compartment of any septic tank or holding tank shall be accessible via a water tight riser to or above grade, with a bolted or locked water-tight lid. The tank-riser interface shall be water-tight.

e. Septic tanks are considered structures by the Building Codes. All tanks, risers, and lids shall be compliant with applicable building and plumbing codes enforced by the Merced County Department of Public Works, Division of Buildings and Safety.

f. These tanks can be subject to buoyant forces from shallow groundwater particularly when empty; tie down systems may be necessary.

3. Septic Tank and Leach Line Systems Criteria for Duck Clubs. Septic tank and leach line systems may be allowed at Duck Clubs only if all of the following conditions are met:

   a. All septic tank and leach line setbacks shall be maintained at all times, including setbacks to surface water; and

   b. A minimum of five (5) feet of separation can be maintained between the bottom of the leach trench and highest historical and anticipated groundwater level; and

   c. The soil percolation rate in the proposed leach line/dispersal area is between 5 and 60 min./inch; and

   d. Leach lines on systems approved for such are constructed no deeper than standard systems; and

   e. Septic tanks shall meet the septic tank requirements described in this chapter; and

   f. Tank size and total leach line length shall be determined by the Division of Environmental Health; and

   g. The septic tank shall be covered with not less than twelve (12) inches of soil.

9.54.090 Implementation

A. The Division of Environmental Health shall be responsible for implementation of this chapter and regulations adopted by the Board of Supervisors.

B. The Division of Environmental Health shall establish a permitting system to authorize the construction, repair, use, abandonment, and destruction of any OWTS within the unincorporated areas of Merced County and incorporated areas where authorized.

C. The Division of Environmental Health shall have authority to investigate any activity subject to this chapter. Compliance with this chapter will be determined based on the submission of a technical report to the Division of Environmental Health. The Division of Environmental Health is authorized to enforce the prohibition of any activity that is determined to be in violation of this chapter or regulations adopted by the Board of Supervisors.

D. The applicant, permit holder or other interested person or entity may appeal an administrative determination made by the Division of Environmental Health under this chapter which: (1) finds that an application is complete or incomplete; (2) establishes or modifies operating conditions; (3) grants or

denies a permit; or (4) suspends or revokes a permit. Administrative appeals under this section must be made in writing, must clearly set forth the reasons why the appeal ought to be granted, and must be received by the clerk of the board within fifteen (15) calendar days of the postmark date on the envelope that transmits the administrative determination. Any appeal that is not timely filed, or that is not accompanied by the required fee, will be deemed ineffective and the administrative determination that is being appealed will become final. The Board of Supervisors shall fix a reasonable time for the hearing of an appeal of an administrative determination at a regularly scheduled meeting of the Board of Supervisors. The Board of Supervisors shall provide written notice of the appeal hearing to the appellant and all interested parties and to all landowners within one-quarter mile of the parcel where operations will occur. The Board of Supervisors shall hear the appeal and issue a decision within thirty (30) days after the hearing. The Board of Supervisors may take any appropriate action upon the original administrative action that was appealed, including granting or denying the appeal in whole or in part, or imposing, deleting or modifying operating conditions of the permit. The decision of the Board of Supervisors shall be final forthwith.

9.54.100 Authority

A. General Authority. The Division of Environmental Health Director, or authorized designee(s), is authorized to take all necessary action to enforce the provisions of this chapter and to carry out any other special enforcement programs initiated by order or resolution of the Board of Supervisors.

B. Right of Entry and Inspection. The Division of Environmental Health Director, or authorized designee(s), may enter at any and all reasonable times any places, property, premises, or enclosure for the purpose of carrying out any activity required or authorized by the provisions of this chapter, including to make examinations and investigations to determine whether any provision of this chapter is being violated. Upon request, the County personnel entering and inspecting shall provide adequate identification. Except under extreme circumstances, an inspection warrant shall be obtained if entry is refused.

C. Stop Orders. The Division of Environmental Health Director, or authorized designee(s), is authorized to issue stop orders to prohibit further construction or use of OWTS or related facilities that any of them deem in violation of the provisions of this chapter. Such stop orders shall remain in effect until violations are corrected.

D. Citations. The Division of Environmental Health Director or authorized designee(s), are authorized to issue citations and/or abatement orders to persons for violations of the provisions of this chapter.

E. Enforcement Costs. The Division of Environmental Health Director, or authorized designee(s), is authorized to recover from the property owner or the person in control of the property, all administrative costs associated with the enforcement of the provisions of this chapter or the enforcement of any condition to the issuance or granting of any permit or entitlement provided for by this chapter.

F. No Entitlement for OWTS with Violations. No permits of any kind or other entitlement shall be accepted or processed for OWTS in violation of provisions of this chapter unless such entitlement corrects the violation.

G. Revocation or Modification for Cause. A permit may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, such modification may include the

modification of the terms of the permit itself or the waiver, alteration, and imposition of new conditions.

1. Grounds for Revocation or Modification. Revocations or modifications may be made upon a finding of any one or more of the following grounds:

a. That such permit was obtained or extended by fraud;

b. That one or more of the conditions upon which such permit was granted have been violated or is not followed;

c. That the use for which the permit was granted is so conducted as to be a nuisance or detrimental to the public health, welfare, or safety; or unreasonable within the meaning of Article X, Section 2 of the California Constitution.

2. Initiation of Action. An administrative action to revoke or modify may be initiated by order of the Board of Supervisors, on its own motion or on the request of the Division of Environmental Health Director, or authorized designee(s).

3. Notice, Review Hearing, and Decision. An action to revoke or modify shall be noticed, reviewed, heard, and decided in the same manner and by the same authority that originally granted the permit.

4. An action to revoke or modify may be appealed pursuant to the appeal procedure.

H. Any OWTS use which is established, operated, used, erected, moved, altered, enlarged, or maintained contrary to the provisions of this code, is declared to be unlawful and shall be subject to the remedies and penalties set forth in this chapter.

9.54.110 Penalty for violation

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in Section 1.28.020 of Merced County Code. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or allowed and shall be punishable accordingly.

B. In addition to or in lieu of the penalty provisions or remedies set forth in this chapter, any violation of any of the provisions of this chapter, and any condition caused or allowed to exist in violation of any of the provisions of this chapter, shall be deemed a public nuisance and shall, at the discretion of the County, create a cause of action for injunctive relief, including but not limited to any remedy under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

9.54.120 Severability and effect

A. The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

B. The prohibitions of this chapter shall not be applicable to the extent that their application would result in a violation of the Constitution or other laws of the United States or the state of California. The Division of Environmental Health shall issue a permit to authorize conduct otherwise prohibited under

this chapter if the applicant demonstrates that such permit is necessary to avoid such a violation of State or federal law.

9.54.130 Conflicting regulations

Where there is a conflict between the regulations of this chapter and any other chapter of local, state or federal regulation, the greater or more stringent regulation or restriction shall apply and shall be enforced by persons authorized in this chapter.

This ordinance shall become effective and be in full force on and after thirty (30) days of its passage and adoption, and prior to the expiration of fifteen (15) days from the passage and adoption thereof, shall be published in a newspaper of general circulation printed and published in the County of Merced, State of California, together with the names of the members of the Board of Supervisors of the County of Merced, voting for or against the same.

The foregoing ordinance was passed and adopted by the Board of Supervisors of the County of Merced, State of California, at a regular meeting thereof, held on the 6th day of December, 2016 by the following vote:

SUPERVISORS

AYES: Hub Walsh, John Pedrozo, Daron McDaniel, Deidre F. Kelsey, Jerry O'Banion

NOES: None

ABSENT: None

Chairman, Board of Supervisors

ATTEST:

JAMES L. BROWN

Clerk of the Board of Supervisors

By _____, Deputy

APPROVED AS TO LEGAL FORM AND EFFECT:
MERCED COUNTY COUNSEL

BY: _____